		DOR 6.197
Dorn Schuffman Director				
CHAPTER Human Resources	SUBCHAPTER Personnel Administration	EFFECTIVE DATE Dec. 1, 2005	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Direct Care Overtime Payments		AUTHORITY 105.935 & 630.050 RSMo	HISTORY See Below	
PERSON RESPONSIBLE Director, Office of Human Resources			Sunset Date July 1, 2009	

PURPOSE: Prescribes the process for paying overtime under the provisions of 105.935 RSMo.

APPLICATION: This is applicable to overtime earned under the Fair Labor Standards Act (FLSA) and to employees in positions which are not exempt from the FLSA and which provide direct client care. It further applies only to department facilities providing direct client care on a twenty-four hour, seven day a week basis.

(1) In this procedure, the following terms shall mean:

(A) "FLSA", the federal Fair Labor Standards Act, which governs overtime payment and other pay matters.

(B) "Overtime", overtime earned under the provisions of the FLSA. Overtime is calculated as the amount of time worked over forty (40) hours in a work week. Overtime earned under the FLSA is compensated at one and one half times the regular rate in pay or time off.

(C) "Compensatory Time" or "Compensatory Leave", time off taken in lieu of a payment for overtime worked.

(D) "Compensatory Time Balance", accrued overtime hours that have not been paid or taken off in lieu of a payment.

(E) "Exempt Employee", an employee whose position is exempt from the overtime provisions of the FLSA. Exempt employees are identified in the state classification and pay plan as overtime code 1 and code 0.

(F) "Non-exempt Employee", an employee whose position is covered by the overtime provisions of the FLSA. Non-exempt employees are identified in the state classification and pay plan as overtime code 2.

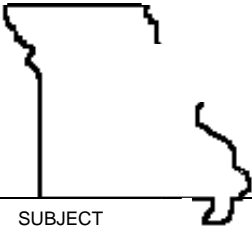
(G) "Direct Care Employee", a non-exempt employee who provides direct health, habilitation, or psychiatric care. Direct care job classes include: Client Attendant Trainee; Developmental Assistant I, II, and III; Licensed Practical Nurse I, II, and III; Psychiatric Aide I and II; Security Attendant; Security Aide I, and II; Registered Nurse I, II, and III; and, Substance Abuse Counselor Assistant I and II.

(2) Beginning on January 1, 2006, and annually thereafter, each facility must pay direct care employees in full for any compensatory time balance earned under the FLSA .

(A) The payment will be made on the January 31 paycheck to allow for the proper calculation of overtime during the January 1 workweek.

(B) Employees may retain up to eighty (80) hours of compensatory time balance.

(C) Each facility must implement a process for employees to indicate their desire to be paid fully for compensatory time; be paid partially for compensatory time and retain up to eighty (80) hours; or to retain all compensatory time.



DORN SCHUFFMAN, DEPARTMENT DIRECTOR



DOR
6.197

SUBJECT Direct Care Overtime Payments	EFFECTIVE DATE Dec. 1, 2005	NUMBER OF PAGES 2	2 of 2
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(D) The facility may allow an employee to retain more than eighty (80) hours of compensatory time if desired by the employee and agreed to by the facility.

(3) A direct care employee who has accrued any overtime may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the employee and the supervisor. Employees may request the use of compensatory leave by completing the appropriate leave form (DMH 13a) prior to the leave use.

(4) The facility must pay a direct care employee for overtime earned under the FLSA on a monthly basis upon written request by the employee.

(A) Each facility must implement a process for employees to indicate their desire to receive a payment for overtime worked.

(B) Employees must request that at least twenty (20) hours of overtime be paid. Balances or requests of less than twenty hours are not required to be paid.

(C) The employee will receive the payment for overtime worked in the calendar month following the request.

(5) Notwithstanding the provisions of sections (2), (3) and (4) above, the facility may pay at any time for any amount of overtime earned under the FLSA except that an employee may retain up to eighty (80) hours if so desired and if the facility has been notified of such.

History: Original DOR effective December 1, 2005.